IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO. 1198 OF 1998.

The Dharamsi Morarji
Employees Welfare Fund. ... Applicant.

V/s.

The Commissioner of Income-tax,
Bombay City-III ... Respondent.

Shri A.N. Kotalge with D.A. Dubey i/b K.C. Sidhwa
for the applicant.

Ms. V.B. Patel for the respondent.

CORAM : V.C.DAGA AND A.S.AGUIAR, JJ.

DATED : 25.7.2005

P.C. :

. By this reference under section 256 of the Income-tax Act, 1961, the Income Tax Appellate Tribunal has referred the following questions of law for the opinion of this Court:

1. Whether, on the facts and in the circumstances of the case, the Tribunal was justified in holding that the assessee trust was liable to be assessed in the status of " Association of Persons" and not that of "individual"?

2. Whether, on the facts and in the circumstances of the case and in law, the Tribunal was justified in holding that the assessee trust was not eligible for deduction under section 80L on the ground that it was liable to be assessed in the status of "Association of Persons"?

. Learned counsel for the parties agreed that the above questions are coveredb by the judgment of this Court in the case of Director of Income-tax

(Exemptions) vs. Shardaben Bhagubhai Mafatlal Public Charitable Trust, reported in (2001) 247 ITR 1, wherein this Court ruled that the trust is liable to be assessed as individual and was eligible for exemption under section 80L of the Income-tax Act. Following the said judgment, we hold that the assessee is not liable to be assessed to income-tax. In this view of the matter, both the questions are answered in the affirmative i.e. in favour of the assessee and against the revenue.

. Reference stands disposed of with no order as to costs.

(A.S.AGUIAR, J.) **(V.C.DAGA, J.)**